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DEPARTMENT PLEASE PASS TO OPIC BALLINGER, EVERHART  
DEPARTMENT PLEASE PASS TO TDA STEIN, GREENIP

SENSITIVE

E.O. 12958: NA

TAGS: [ECON](#) [ENRG](#) [EPET](#) [PREL](#) [PGOV](#) [KZ](#) [ECONOMIC](#)

SUBJECT: KAZAKHSTAN: SHKOLNIK ASSURES AMBASSADOR ON BTC  
IGA/HGA RATIFICATION

1. (SBU) Summary: Ambassador Ordway, accompanied by OPIC Chief Economist Steven Everhart, met with Minister of Energy and Mineral Resources Vladimir Shkolnik on September 27 in Astana. Shkolnik assured the Ambassador and Everhart that Kazakhstan would sign off on the recently initialed Baku-Thilisi-Ceyhan IGA and further stated that the stability of the IGA and HGA would be solidified by their explicit ratification in Parliament. End Summary.

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BTC Agreements Will Be Ratified  
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2. (SBU) Shkolnik was quick to assure the Ambassador that Kazakhstan indeed plans to sign the BTC IGA that was initialed September 24. He cautioned, however, that the internal GOK process of collecting approvals from all involved ministries would take time. He did not predict a timeframe, but noted that President Nazarbayev had instructed him to conclude the agreement quickly. Shkolnik attributed the non-signature of the IGA in Baku last May to his having only two days to circulate the initialed text to the ministries before the planned signing.

3. (SBU) Shkolnik also told the Ambassador and Everhart that Kazakhstan planned to follow "the same" procedure for the tax scheme as Azerbaijan had in its Host Government Agreement (HGA) with investors. Most importantly, he said unequivocally that the IGA and HGA will be submitted as a package for ratification in Parliament, thereby assuring their immutability. (Note: Shkolnik referred to the agreements as a "paket," but it would be excessive to conclude that this means Parliament could not, if it chose, act on them individually. End Note.) Everhart told Shkolnik that OPIC would view ratification as a strong indicator of a stable investment climate that would argue in favor of OPIC expanding its activities in Kazakhstan.

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Domestic Law Questions  
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4. (SBU) Ambassador followed up on Shkolnik's assurances about ratification of the BTC agreements by raising U.S. concerns about the apparent technical error in Article 20.2 of the recently enacted Law on International Agreements. (NOTE: Article 20.2 appears to state that Kazakhstan's domestic legislation has priority over all international agreements, even those that are ratified. The MFA representative at the BTC negotiations recently admitted that the law was only intended to reach non-ratified agreements. The Constitution of Kazakhstan establishes the principle of the primacy of treaty law. End Note.)

5. (SBU) Shkolnik again assured the Ambassador that the Constitution clearly guarantees that ratified agreements are not subject to interference from domestic legislation. However, he did not appear to be immediately familiar with the technical error in Article 20.2, so it is not clear if he is personally involved in any effort to get Parliament to correct the law. (Note: In a conversation later that day, Foreign Minister Tokayev categorically assured the Ambassador that this "mistake" would be corrected, he hoped by the end of the year.)

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TDA Grant Falls Through  
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6. (U) The Ambassador also raised the issue of the proposed TDA Grant Agreement to Shkolnik. Shkolnik declined to sign the grant because he believed that the terms of reference no longer described what the grant would do. While he

regretted the loss of the funds due to the end of the fiscal year, he was not prepared to sign a document that called for activities that duplicated work already done.

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Comment  
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[17](#). (SBU) As usual, Shkolnik was voluble and open, despite having only been on the job for a day after a serious bout of the flu. His statement that both the IGA and the HGA will be submitted to Parliament for ratification is undoubtedly a positive development. This meeting also included discussion of some non-proliferation topics, which are addressed Septel.

Ordway

NNNN